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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

TC RICH, LLC *et al.*,
Plaintiffs,
 v.
 PACIFICA CHEMICAL
 INCORPORATED, *et al.*,
Defendants.

Case No. 2:15-cv-4878-DMG(AGR_x)
 JOINT STATUS REPORT
 Assigned to Judge Dolly M. Gee
 Action filed: June 26, 2015
 Discovery cut-off: None set
 Trial date: None set

AND RELATED CROSS-ACTIONS

Pursuant to the Order Re Litigation Stay (ECF No. 90) filed on July 3, 2017 (the “Stay Order”), Plaintiffs TC Rich, LLC, Rifle Freight, Inc., Fleischer Customs Brokers, Richard G. Fleischer, and Jacqueline Fleischer (“Plaintiffs”), Plaintiff-Intervenor 13301 S. Main Street, LLC (“Intervenor”), and Defendant Pacifica Chemical Incorporated (“Pacifica”) (collectively, the “Parties”) file this Joint Status Report to inform the Court of the Parties’ progress in settlement negotiations and the environmental investigation.

I. BACKGROUND

Plaintiffs are the current owners and occupants of the real property located at located at 132 West 132nd Street, Los Angeles, (the “Property”). In their Complaint,



1 Plaintiffs allege that the soil, soil vapor, indoor air, and groundwater at the Property
2 is contaminated with tetrachloroethylene, also known as perchloroethylene (“PCE”).
3 Plaintiffs further allege that Pacifica is liable for the contamination under the
4 Comprehensive Environmental Response, Compensation, and Liability Act
5 (“CERCLA”), 42 U.S.C. §§ 9607. Pacifica filed a Counterclaim asserting Plaintiffs
6 were liable as the current owners of the Property. Later, Plaintiff-Intervenor filed a
7 Complaint-In-Intervention alleging that the contamination had migrated onto its
8 adjacent property and that both Plaintiffs and Pacifica were liable.

9 On June 7, 2017, the Parties attended the Second Settlement Conference with
10 Magistrate Judge Gandhi where a framework for a prospective settlement was
11 developed. Key to the settlement was evaluating perceived data gaps by installing
12 additional groundwater wells and obtaining approval of a Removal Action Workplan
13 (“RAW”) from the Department of Toxic Substances Control (“DTSC”).

14 **II. STATUS OF ENVIRONMENTAL INVESTIGATION**

15 Significant progress has been made since the Stay Order was issued. First, the
16 groundwater wells were installed and sampled. Next, on November 20, 2017, the
17 draft RAW was submitted to DTSC. Most recently, at the beginning of January 2018,
18 DTSC provided written comments to the RAW.

19 Although progress has been made, it has not comported with the timeline
20 anticipated in the Stay Order. Pacifica is still preparing its response to DTSC’s
21 comments and evaluating how they impact the cost estimate and settlement. In
22 particular, DTSC “recommends that a pilot test be conducted to evaluate and develop
23 full-scale injection design parameters” for the planned Enhanced Reductive
24 Dechlorination injections before a final remedy is implemented. Pacifica’s
25 consultant, Murex Environmental, Inc. (“Murex”) concurs with this point as it will
26 allow Murex to refine its cost estimate for the remedy and make sure the technology
27 is effective. And, importantly, Pacifica’s insurer, Fireman’s Fund Insurance
28 Company, has agreed to pay for the costs associated with the pilot test. Murex



1 estimates that it will take 12 months to complete the pilot test, including the requisite
2 reporting.

3 Therefore, while progress toward a final settlement is ongoing, dismissal of
4 this case is premature. More time is necessary to respond to DTSC's comments on
5 the draft RAW. After DTSC is satisfied with a revised draft RAW, a 30-day public
6 comment period will commence and additional changes may be required. Further,
7 once the final RAW is approved, Murex will need to complete the groundwater pilot
8 test before it can refine its fixed-price for the remediation.

9 **III. SCHEDULING CONFERENCE**

10 Given the above, the Parties request that the status conference be continued
11 from January 26, 2018 to January 25, 2019 and that the Parties either file dismissals
12 or an updated joint status report by January 18, 2019. In addition, Pacifica will file
13 an interim status report on or before August 24, 2018 to update the Court and the
14 Parties on the progress of the pilot test.

15 DATED: January 19, 2018

PALADIN LAW GROUP® LLP

17 */s/ Bret A. Stone*

18 _____
19 Bret A. Stone
20 Counsel for Defendant Pacifica Chemical
21 Incorporated

22 DATED: January 19, 2018

RAINES FELDMAN LLP

24 */s/ John S. Cha*

25 _____
26 John S. Cha
27 Steven T. Gebelin
28 Counsel for Plaintiffs



1 DATED: January 19, 2018

FOLEY & LARDNER LLP

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3 /s/ *Tony Tootell*

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5 Sarah A. Slack
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